Supreme Court, U.S.
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No. 84-1853

In the Supreme Court of the United States

OCTOBER TERM, 1985

E. WYLLYS TAYLOR, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

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The issue in this case is whether, in order to forfeit a defendant's racketeering proceeds under the prior version of 18 U.S.C. 1963(a)(1), the government must prove that the defendant still had the money at the time of conviction. In our response to the petition, we acknowledged that the decision below was in direct conflict with *United States* v. *Alexander*, 741 F.2d 962 (7th Cir. 1984), and other Seventh Circuit decisions. We pointed out, however, that in *United States* v. *Ginsburg*, 753 F.2d 1079 (1985) (Table), the Seventh Circuit had granted rehearing en banc to consider whether it should adhere to its prior decisions on which petitioner relies.

We file this supplemental memorandum in order to inform the Court that on September 13, 1985, the en banc court of appeals rendered its opinion in *Ginsburg*. Expressly overruling the previous decisions relied on by

petitioner (slip op. 8), the court held that the government was not required to show that the proceeds of racketeering activity were still in existence at the time of a defendant's conviction before it could obtain forfeiture of the proceeds under old Section 1963(a)(1). Accordingly, there is no longer any conflict among the circuits on this issue warranting the Court's review.

Respectfully submitted.

CHARLES FRIED
Acting Solicitor General

SEPTEMBER 1985

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